



WEB COPY



W.P.No.3548 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.3548 of 2019
and W.M.P.No.3868 of 2019

V.Chinnakannu

... Petitioner

Vs.

1.The District Registrar of Co-operative,
Housing Development Society,
O/o. The Joint Registrar,
Salem Zone, Fairlands, Salem – 16.

2.The Secretary,
S.No.1337, Salem Professional Employees,
Co – operative Housing Society Limited,
86/44, Kalidesar Street,
Narayana Nagar,
Near Kichipalayam,
Salem – 15.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct 2nd respondent not to auction the House property of the petitioner until the disposal of the appeal pending before the 1st respondent.



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For Petitioner : Mr.C.Girish Babu

For R1 : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader

For R2 : Mr.R.Nareshkumar

ORDER

The writ petition is filed seeking a direction to 2nd respondent not to auction the house property of the petitioner until disposal of the appeal said to have been filed by the petitioner and pending before the 1st respondent.

2. According to the petitioner, she applied for housing loan from 2nd respondent/Society and availed a loan of Rs.4,00,000/-. The petitioner in the affidavit has stated that though the petitioner was allotted a loan amount of Rs.4,00,000/-, she received an amount of Rs.2,60,943/- only. Since the petitioner committed default in repayment, the 2nd respondent brought the property for public auction. The petitioner received public auction notice on 23.11.2018.

3. It is stated by the learned counsel for the petitioner that the calculation



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made by the 2nd respondents is arbitrary and they are not entitled to claim any penal interest.

4. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the 1st respondent submitted that the petitioner has not filed any appeal before the 1st respondent and no appeal is pending before the 1st respondent.

5. When a specific question is put to the respondents whether the petitioner is entitled to benefit of the Government Order issued by the Government for waiver of penal interest, the learned counsel appearing for the 2nd respondent produced a calculation whereunder, by applying benefit available under G.O.(Ms).No.40 Housing and Urban Development Department dated 16.05.2015, after waiving penal interest, the petitioner is liable to pay the sum of Rs.6,81,746/-.

6. The Government Order in G.O.(Ms).No.40, Housing and Urban Development Department, dated 16.05.2015 is in operation till 02.09.2023 as per the extension granted by G.O.Ms.No.31, Housing and Urban Development



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Department, dated 03.03.2023. The Government Order granting waiver of penal interest is available till 02.09.2023. The petitioner is entitled to get waiver of penal interest as per Government Orders referred above. Therefore, the petitioner is directed to approach the 2nd respondent immediately and get his grievance redressed by seeking waiver of penal interest under Government Orders referred above.

7. With this observation, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

04.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

The District Registrar of Co-operative,
Housing Development Society,
O/o. The Joint Registrar,
Salem Zone, Fairlands, Salem – 16.



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S.SOUNTHAR, J.

dm

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